



Office of the State Superintendent of Education



DISTRICT OF COLUMBIA  
MAYOR ADRIAN M. FENTY

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**OSSE POLICY**

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## **Policy for Complaint Procedures for Elementary and Secondary Education Act Programs And Competitive Grants**

The purpose of this policy is to describe the administrative procedures of the District of Columbia's Office of the State Superintendent of Education (OSSE) for handling and resolving complaints about the operations of programs administered under the Elementary and Secondary Education Act (ESEA) and other applicable District laws in a fair and timely manner.

Parents, teachers, individuals, private schools, local education agencies, and other organizations may file a complaint alleging that a federal statute or regulation has been violated in the administration of ESEA programs. OSSE shall investigate all allegations of non-compliance with state or federal law, rules or regulations.

This policy serves as the grievance procedures for all ESEA programs and state administered competitive grants, excluding the complaints and hearing process under Part B and Part C of the Individuals with Disabilities Education Act, 20 USC 1400 et seq. administered pursuant to Title 5, Chapter E-30 of the District of Columbia Municipal Regulations available at <http://www.deregs.org>.

This policy replaces all previously issued complaint procedures for ESEA programs. This policy is not intended to be a substitute for any federal statutes, regulations or non-regulatory guidance.

/s/

Kerri L. Briggs, Ph.D.  
State Superintendent

# Policy for Complaint Procedures for Elementary and Secondary Education Act Programs and Competitive Grants

## Table of Contents

	<u>Page</u>
I. Authority .....	3
II. Purpose .....	3
III. Complaints .....	4
A. Complaints from the Public.....	4
B. Complaints from Private Schools .....	4
C. Process for Submitting Complaints .....	4
D. Complaints that are Incorrectly Addressed .....	5
IV. Complaint Resolution Process .....	5
V. Subgrantee Complaints and Hearings .....	6
A. Automatic Hearings .....	6
B. Hearings for Other ESEA Programs .....	6
VI. Hearings Under the Uniform Provisions Section/Equitable Services ....	7
VII. Hearings .....	8
VIII. Appeals .....	8

### APPENDIX:

A. Glossary .....	9
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## Policy for Complaint Procedures for Elementary and Secondary Education Act Programs and Competitive Grants

### I. Authority

The Office of the State Superintendent of Education has the authority to hear complaints and appeals regarding programs administered under the Elementary and Secondary Education Act (ESEA) pursuant to: EDGAR Sec. 76.401, 76.783; Title IX, Sec. 9304 (20 USC 7844); Title IX, Sec. 9503 (20 USC 7883). This policy shall serve as the grievance procedure for all ESEA programs and state administered competitive grants, excluding the complaints and hearing process under Part B and Part C of the Individuals with Disabilities Education Act, 20 USC 1400 et seq. administered pursuant to Title 5, Chapter E-30 of the District of Columbia Municipal Regulations available at <http://www.dcregs.org>.

### II. Purpose

The purpose of this guidance is to describe the administrative procedures of the District of Columbia's Office of the State Superintendent of Education (OSSE) for handling and resolving complaints regarding the operations of programs administered under the Elementary and Secondary Education Act (ESEA) and other applicable District laws in a fair and timely manner. These procedures describe:

- How individuals or organizations may register a complaint that the state education agency (SEA), local education agency (LEA), or other grant recipient has violated laws and/or regulations governing state-administered programs funded under ESEA;
- When private schools may register a complaint with OSSE against the District of Columbia Public Schools (DCSPS); and
- When eligible applicants and subgrantees may request a hearing on an action taken by the state education agency.

The following procedures govern the receipt and resolution of a complaint alleging that the OSSE as the SEA, a District of Columbia LEA or other grant recipient is in violation of any federal statute or regulation that applies to a state-administered ESEA funded program listed in section III, Complaints.

Guidance for subgrantees requesting a hearing and the reasons for requesting a hearing are described in section V, Subgrantee Complaints and Hearings.

If you believe that a public agency has failed to comply with the Individuals with Disabilities Education Improvement Act (IDEA) or with a requirement of District of Columbia law regarding special education under Part B of IDEA or a public agency or private service provider with regard to early intervention services under Part C of the IDEA, you may file a complaint to initiate an investigation of the matter in accordance with the IDEA complaint policy. A copy of this policy can be found at:

<http://osse.dc.gov/sec/cwp/view,a.1222,q.561179.asp>



This guidance is not intended to be a substitute for any federal statutes, regulations, or non-regulatory guidance.

### III. Complaints

OSSE shall investigate all allegations of non-compliance with state or federal law, rules or regulations. When appropriate, every effort should be made to resolve the issue at the local level before filing a formal complaint with OSSE. This can include meeting with the principal, school head, or central office staff to address the alleged violation. Only once all local remedies have been exhausted should a formal complaint be submitted to OSSE.

#### A. Complaints from the Public

Parents, teachers, other individuals or organizations may file a complaint alleging the SEA or LEA is violating a federal statute or regulation that applies to any of the programs administered under the Elementary and Secondary Education Act (ESEA), as amended. These programs include, but are not limited to:

1. Title I, Part A, Improving the Academic Achievement of the Disadvantaged;
2. Title I, Part B, Subpart 3, Even Start Family Literacy;
3. Title I, Part D, Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk;
4. Title II, Part A, Teacher and Principal Training and Recruiting Fund
5. Title II, Part B, Mathematics and Science Partnerships;
6. Title II, Part D, Enhancing Education through Technology; Title III, Part A, English Language Acquisition, Language Enhancement, and Academic Achievement;
7. Title IV, Part A, Safe and Drug-Free Schools and Communities;
8. Title IV, Part B, 21st Century Community Learning Centers;
9. Title V, Part D, Subpart 6, Gifted and Talented Students; and
10. Competitive grants administered with local funds.

#### B. Complaints from Private Schools

Private school officials, parents, teachers or other interested individuals or organizations may file a complaint with OSSE if they believe the District of Columbia Public Schools (DCPS) has not engaged in a consultation that is meaningful and timely, or if the DCPS has not given due consideration to the views of the private school officials. Complaints regarding poverty data for private school students may also be addressed to OSSE. A complaint related to private schools shall be resolved in the same manner as other complaints listed herein including the right to appeal a final decision issued by the OSSE to the Secretary of the U.S. Department of Education.

#### C. Process for Submitting Complaints

##### I. Complaints must be in writing and should contain:

- A statement that the state or subgrantee has violated a requirement of a federal statute or regulation that concerns a covered program;

- The facts on which the statement is based;
- A recommendation on how OSSE would resolve the complaint;
- The specific requirement of law or regulation allegedly violated, if possible; and
- Be signed and dated by the complainant.

2. Complaints must be mailed or hand-delivered to:  
Assistant Superintendent of Elementary and Secondary Education  
Office of the State Superintendent of Education  
810 First Street, NE – 9<sup>th</sup> Floor  
Washington, DC 20002

D. Complaints that are Incorrectly Addressed

1. OSSE may, at its own discretion, redirect a complaint which should have been properly filed under the Individuals with Disabilities Education Act (IDEA) complaint policy.

2. A copy of this complaint policy can be found online at:

<http://osse.dc.gov/seocwp/view.a.1222.q.561179.asp>

**IV. Complaint Resolution Process**

1. OSSE shall issue a Letter of Acknowledgement to the complainant within fifteen (15 ) business days of receipt of a complaint. If the complaint involves an LEA, OSSE shall send a copy of the Letter of Acknowledgement to the DCPS Chancellor, or corresponding administrator of the LEA.
2. The letter will include the following information:
  - the date the office received the complaint;
  - how the complainant may provide additional information;
  - the name and contact information of the assigned complaint investigator; and
  - timelines for the resolution of the complaint.
3. OSSE shall investigate the complaint, reviewing the facts and circumstances of the complaint and may request further information from the complainant.
4. OSSE in its discretion may conduct an onsite monitoring visit.
5. Once OSSE has determined whether a violation of law or regulation has occurred, the complaint investigator shall develop a Letter of Findings to address whether or not the program in question is in compliance. The Letter of Findings, stating either the need for corrective action or that OSSE does not sustain the complaint, shall be sent to the complainant and DCPS or other subject of the complaint. Each party shall have the right to respond in writing to the Letter of Findings within ten (10) business days from the date of issuance. A party filing a response shall deliver a copy to OSSE as well as each party subject to the complaint.



6. OSSE shall issue a Final Agency Decision based upon its Letter of Findings and any additional information provided in the responses, as deemed appropriate within sixty (60) business days after the date of issuance of its Letter of Findings.
7. If OSSE determines a violation has occurred, the subject of the complaint shall submit a corrective action plan. The plan and timelines for its completion must be approved by OSSE.
8. The Final Agency Decision issued by OSSE may be appealed in accordance with section VIII, Appeals below.

## **V. Subgrantee Complaints and Hearings**

Applicants and subgrantees may file a complaint and are entitled to a hearing under the conditions described herein.

### **A. Automatic Hearings**

1. A party has a right to a hearing when OSSE:
  - a. Disapproves a grant application,
  - b. Fails to provide funds in accordance with statutes and regulations,
  - c. Seeks repayment of misspent or misapplied federal funds, or
  - d. Terminates further grant assistance for an approved project.
2. In accordance with 34 CFR 76.401 of the Education Department General Administrative Regulations (EDGAR), applicants for specific programs shall receive notice and an opportunity for a hearing before OSSE disapproves the application.  
A full listing of the programs covered by 34 CFR 76.401 can be viewed at:  
[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title34/34cfr76\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title34/34cfr76_main_02.tpl)
3. OSSE will not consider competitive applications for funding that do not score high enough to be funded or fail to meet the requirements of the Request for Application notice, including: failure to meet submission and formatting requirements; late applications; incomplete applications; applications submitted by ineligible entities; applications exceeding prescribed budget limitations or project periods; or applications that do not meet the purpose of the program. Such applications are not considered denials of approval and, therefore, are not entitled to a hearing under these procedures.

### **B. Hearings for Other ESEA Programs**

1. For ESEA programs not listed in A.2 above, the applicant must allege that OSSE performed one of the following actions that violates a state or federal statute or regulation:
  - a. Disapproval of or failure to approve the application or project in whole or in part,
  - b. Failure to provide funds in amounts in accordance with the requirements of statutes and regulations;
2. The applicant must request the hearing in accordance with section VII, Hearings.

## **VI. Hearings Under the Uniform Provisions Section/Equitable Services**

1. OSSE is responsible for ensuring that its sub-grantees provide equitable services to private school students and teachers (See section 9501 of the ESEA). Section 9501(a) of ESEA requires an LEA with an eligible service area to provide equitable services to teachers and students in non-profit private elementary and secondary schools. Within the District of Columbia, only District of Columbia Public Schools has an established eligible service area.
2. The LEA must engage in timely and meaningful consultation with eligible non-public schools.
3. The following grants awarded under the ESEA are subject to the equitable service provisions:
  - Title I, Part A, Improving the Academic Achievement of the Disadvantaged;
  - Title I, Part B, Subpart 1, Reading First;
  - Title I, Part B, Subpart 3, Even Start Family Literacy;
  - Title II, Part A, Teacher and Principal Training and Recruiting Fund<sup>1</sup>;
  - Title II, Part B, Mathematics and Science Partnerships;
  - Title II, Part D, Enhancing Education through Technology;
  - Title III, Part A, English Language Acquisition, Language Enhancement, and Academic Achievement;
  - Title IV, Part A, Safe and Drug-Free Schools and Communities;
  - Title IV, Part B, 21st Century Community Learning Centers; and
  - Title V, Part D, Subpart 6, Gifted and Talented Students<sup>2</sup>.
4. If a parent, teacher, individual or organization believes that an LEA has not engaged in timely and meaningful consultation, prior to the expenditure of funds they should first file a complaint in accordance with Section III of this guidance.
5. Additionally, if parents of *publicly* placed students with disabilities who are enrolled in private (nonprofit) schools by their LEA of residence feel that the LEA is not engaging in prior meaningful consultation with their child's school, they may file a complaint in accordance with Section III of this guidance.
6. The resolution (or its failure to resolve the complaint within a reasonable period of time) may be appealed by private school officials to the Secretary of the U. S. Department of Education (Secretary). The appeal to the Secretary must be filed no later than 30 days following OSSE's resolution of the complaint (or its failure to resolve the complaint within a reasonable period of time). The Secretary investigates and resolves the appeal not later than 120 days after receipt of the appeal. (See section

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<sup>1</sup> Equitable services provisions only apply if these funds are used to support professional development within the LEA.

<sup>2</sup> There are additional equitable service requirements under IDEA. For information about these services, please consult the IDEA complaint policy at: <http://osse.dc.gov/seo/cwp/view.a.1222.q.56.179.asp>



9503 of ESEA). For further guidance on appeals see Section VIII of this guidance or Department of Education Guidance at:

[http://www.ed.gov/policy/elsec/guid/equitableseguidance.doc#\\_Toc225846080](http://www.ed.gov/policy/elsec/guid/equitableseguidance.doc#_Toc225846080)

## **VII. Hearings**

All hearings shall be conducted by the District of Columbia Office of Administrative Hearings (OAH). OSSE has entered in to an agreement with the Office of Administrative Hearings (OAH), whereby the OAH shall accept and adjudicate all requests for hearings under this policy. Procedures for filing complaints with OAH and details on the resolutions of complaints filed with OAH can be found at:

[http://oah.dc.gov/oah/frames.asp?doc=/oah/lib/oah/pdf/information/oah\\_pdf\\_chapter\\_29\(2\).pdf](http://oah.dc.gov/oah/frames.asp?doc=/oah/lib/oah/pdf/information/oah_pdf_chapter_29(2).pdf)

The decision issued by OAH is deemed to be a Final Agency Decision, unless otherwise specified. Additional information regarding the procedure for filing a request for hearing can be obtained by contacting the Office of Administrative Hearings at 202-442-9091.

## **VIII. Appeals**

1. In conformance with federal regulation, a party subject to a final agency decision may submit an appeal to the Secretary of the U.S. Department of Education.
2. The applicant shall file a notice of the appeal with the Secretary within twenty (20) calendar days after the date of issuance of the final agency decision.
3. The appeal shall be accompanied by a copy of OSSE's final administrative decision and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 calendar days after receipt of the appeal.
4. If the Secretary determines that OSSE's action was contrary to federal statutes or regulations that govern the applicable program, the Secretary will require OSSE to take appropriate action.
5. If the Secretary determines that OSSE's action was supported by substantial evidence, the findings of fact of OSSE are final.



Appendix A

GLOSSARY

1. **Applicant:** an entity that applies to OSSE for state-administered, federal grant money
2. **Complainant:** public agencies, parents, teachers, administrators, organizations, or other stakeholders or individuals involved with an activity, program, or project operated under one of the ESEA grants
3. **Complaint:** an allegation that the state, a local education agency, or other subgrantee receiving federal funds has violated a federal statute or regulation or a related state regulation that applies to a covered federal program
4. **Federal program:** the federal programs administered by the SEA under the authority of ESEA
5. **EDGAR:** Education Department General Administrative Regulations (34 CFR Parts 74-99)
6. **Eligible entities:** local education agencies, community-based organizations or other agencies that are eligible to apply for and receive federal funds from the state education agency for state-administered programs
7. **ESEA:** Elementary and Secondary Education Act of 1965, as amended 20 USC 2701 et seq., P.L. 107-110.
8. **LEA:** local education agency (e.g., DCPS and public charter schools)
9. **OSSE:** Office of the State Superintendent of Education
10. **SEA:** state education agency
11. **State-administered programs:** federal grant programs where funds flow through the state education agency to eligible entities
12. **Subgrantees:** eligible entities (e.g., local education agencies) receiving federal grant funds from the state education agency